

# HB5854



## 98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5854

by Rep. Ed Sullivan, Jr.

### SYNOPSIS AS INTRODUCED:

35 ILCS 200/21-26 new

Amends the Property Tax Code. Provides that certain tax liens are assignable. Provides that such an assignment of a tax lien does not alter the priority of the lien.

LRB098 17878 HLH 53002 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Property Tax Code is amended by adding  
5 Section 21-26 as follows:

6 (35 ILCS 200/21-26 new)

7 Sec. 21-26. Assignment of real property tax lien.

8 (a) As used in this Section, "assignee" means any  
9 individual, firm, partnership, limited liability company,  
10 association, corporation, or any group or combination acting as  
11 a unit to whom an assignment of a tax lien is authorized  
12 pursuant to subsection (b) of this Section.

13 (b) Notwithstanding any other provision of law, the  
14 treasurer of the county in which real property is located shall  
15 assign a tax lien against real property that arises pursuant to  
16 Section 21-75 to an assignee if the county treasurer receives:

17 (1) a written authorization to assign the lien to an  
18 assignee signed by the owner of the real property;

19 (2) payment by the assignee in the amount of the taxes,  
20 fees, interest, and penalties due and owing on the real  
21 property; and

22 (3) a \$25 processing fee made payable to the county  
23 treasurer.

1       (c) The owner of the real property and the assignee may  
2 enter into an agreement for payment of all amounts secured by  
3 the tax lien, including:

4           (1) the total amounts paid as consideration for the  
5 assignment under paragraph (2) of subsection (b) of this  
6 Section;

7           (2) all transaction costs reasonably and necessarily  
8 incurred by the assignee, which shall not exceed \$400 for  
9 homestead properties, as defined by subsection (f) of  
10 Section 15-175;

11           (3) interest at a rate not to exceed the rate  
12 prescribed in Section 21-15 on the total of the amounts  
13 provided for in paragraphs (1) and (2) of this subsection;  
14 and

15           (4) any costs reasonably and necessarily incurred by  
16 the assignee to enforce, collect on, or release the  
17 agreement or the assigned lien; costs described in this  
18 paragraph include, but are not limited to, attorney's fees  
19 and costs incurred relating to foreclosure if the owner  
20 does not redeem the lien or otherwise fails to perform in  
21 accordance with the agreement.

22       (d) Upon receipt of the items listed in subsection (b), the  
23 county treasurer shall assign the lien to the assignee by  
24 issuing the assignee a document acknowledging the assignment,  
25 which shall include the amount paid by the assignee, the legal  
26 description and parcel numbers of the property, and the name

1 and mailing address of the assignee.

2 The assignment of a tax lien pursuant to this Section does  
3 not alter the priority of the lien provided in Section 21-75.

4 (e) The assignee shall, within a reasonable period of time,  
5 cause to be recorded with the county recorder of the county in  
6 which the property is located a copy of the document  
7 acknowledging the assignment issued by the county treasurer  
8 pursuant to subsection (d) of this Section. The recordation  
9 shall constitute prima facie evidence of the valid assignment  
10 and priority of the property tax lien assigned pursuant to this  
11 Section.

12 (f) If additional taxes become delinquent on real property  
13 subject to an agreement entered into pursuant to this Section  
14 while the assigned tax lien that is the subject of the  
15 agreement remains unsatisfied by the owner of the property, the  
16 tax collector shall assign the lien for the additional taxes to  
17 the assignee if the tax collector receives the items required  
18 in subsection (b) of this Section.

19 (g) If the property owner defaults on the payment  
20 agreement, the assignee of the tax lien may foreclose in the  
21 same manner as provided in Article 15 of the Illinois Code of  
22 Civil Procedure, except that no action to foreclose may be  
23 brought prior to the date on which a lien would have been  
24 subject to foreclosure under section 21-75(a) had the taxes not  
25 been paid by the assignee and remained delinquent. At least 60  
26 days before commencing an action to foreclose the assigned

1 lien, the assignee shall provide notice to the holder of a  
2 recorded mortgage lien. The assignee shall not recover a fee in  
3 connection with a foreclosure action if the fee is incurred  
4 within thirty days of the date of the notice required by this  
5 subsection. Upon receipt of the notice, the holder or servicer  
6 of the recorded first lien may obtain a release of the lien by  
7 paying the assignee the amount due under the payment agreement  
8 described in subsection (c) of this Section.

9 If a foreclosure sale of the property results in proceeds  
10 in excess of the amounts owing to an assignee under the payment  
11 agreement between the property owner and the assignee, the  
12 excess moneys shall be distributed to each person that proves  
13 itself entitled to the proceeds, in order of priority, and any  
14 remaining balance shall be paid to the former owner. The  
15 assignee shall not be entitled to or receive any payment in  
16 excess of amounts due under the payment agreement provided for  
17 in this Section.

18 (h) If an assignee receives full satisfaction of the  
19 amounts due in connection with the assigned tax lien, the  
20 assignee shall record a release of the tax lien with the county  
21 recorder of the county in which the property is located. The  
22 assignee shall provide written notification of the release of  
23 the tax lien to the county treasurer.